REMARKS

Summary of Office Action

Claims 1-61 are pending in the above-identified patent application.

The Examiner has acknowledged applicant's election with traverse of claims 1-21 for examination in this application. Claims 1-21 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Kosaka et al. U.S. Patent 5,161,103.

The Examiner also objected to the abstract.

Summary of Applicant's Response

Applicant has amended the abstract. The Examiner's rejection is respectfully traversed.

The Restriction Requirement

The Examiner has acknowledged applicant's election with traverse of claims 1-21, and made the restriction requirement final. The Examiner did not explicitly acknowledge the election of the species related to financial data, but applicant did make that election in reply to the Examiner's election-of-species requirement.

Applicant notes that the Examiner dismissed applicant's traversal, in part because the Examiner considered it an undue burden to search seven distinct inventions. Applicant respectfully submits that that reasoning is circular, in that applicant presented reasons why there are not, in fact, seven distinct inventions merely because there are seven independent claims.

Moreover, according to the classifications set forth by the Examiner, method inventions I and VII, and apparatus invention V, have the same classification. Similarly, apparatus inventions II, III and VI have the same

classification. Thus, the classifications do not justify a seven-way restriction of this application.

Applicant again respectfully submits that there is no justification for identifying each independent claim as a separate invention. It is axiomatic that an applicant is entitled to various independent claims of different scope. That does not make each independent claim a separate invention. In this case, there are various independent method claims of different scope and various independent claims of different scope directed to apparatus for carrying out the method. At most, this justifies a restriction between method claims and apparatus claims. However, at least some of the independent apparatus claims are presented in means-plus-function form. According to MPEP § 806.05(e), governing claims to a method and apparatus for carrying out the method, such means-plus-function claims link the method and apparatus. Accordingly, even a method vs. apparatus restriction would not be proper in this application.

For these reasons, applicant again respectfully requests reconsideration and withdrawal of the restriction requirement.

Applicant's Reply to the
Objection to the Abstract

The abstract was objected to "because of speculation." Applicant has amended the abstract and respectfully submits that the abstract, as amended, is not speculative. Applicant respectfully requests that the objection be withdrawn.

Applicant's Reply to the
Prior Art Rejection

Claims 1-21 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Kosaka. This rejection is respectfully traversed.

Applicant's invention, as defined by claim 1, is a method of analyzing time-varying data by determining a range over which the data varies during a first duration and comparing that range to an expected range of variation based on Brownian motion.

Kosaka neither shows nor suggests the claimed invention. Kosaka is concerned with monitoring various variables, which may include market data. The monitoring occurs during a specific time interval, and Kosaka is concerned with minimizing the interval because data dispersion increases over time. There is no disclosure whatsoever in Kosaka of comparing data variations during an interval to expected data variation during that interval, let alone to variation that is expected based on Brownian motion. In fact, there is no mention at all in Kosaka of comparing the data to anything at all, just as there is no mention of Brownian motion.

At most, Kosaka discusses variation according to a "random walk" (col. 2, line 56). First, however, the "random walk" is discussed only in the context of the data dispersion increasing over time, as a reason why the time interval must be kept as small as possible. Second, a "random walk" is not Brownian motion. By definition, a "random walk" is random, whereas Brownian motion is predictable according to the square root of time as explained in applicant's specification at at least pages 3-4, and as defined in at least dependent claims 5, 8 and 9.

In any event, as stated above, Kosaka does not make any comparison of data variations with expected variations, whether based on Brownian motion, a "random walk," or something else.

Because Kosaka fails to show or suggest the limitations of claim 1, applicant respectfully submits that

Kosaka cannot anticipate, and claim 1, and its dependent claims 2-21, are patentable.

Conclusion

For the reasons set forth above, applicant respectfully submits that this application, as amended, is in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested.

Respectfully submitted,

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